

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

REINALDO DENNES,
Petitioner

VS.

**WILLIAM STEPHENS,
Director, Texas Department of Criminal
Justice, Institutional Division,
Respondent**

ss ss ss ss ss ss ss

CIVIL ACTION NO. H-14-0019

STATE OF TEXAS

COUNTY OF HARRIS

ss ss

AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared Wendell A. Odom, Jr. who being duly sworn upon his oath, stated as follows:

"My name is Wendell A. Odom, Jr. I am over twenty-one years of age. I am of sound mind and am fully competent and authorized to make this affidavit. I have personal knowledge of the statements of fact contained herein, and the statements contained herein are true and correct.

I was trial counsel for Reinaldo Dennes in the capital murder trial styled State of Texas v. Reinaldo Dennes, cause number 750313, in the 263rd District Court in Harris County, Texas. The trial took place in August 1997.

Dennes was convicted of the murder of Janos Szucs a jeweler in Southwest Houston that took place on January 24, 1996. The State was seeking death at the punishment stage of the trial. During the punishment phase the State called David Balderas who testified that the defendant masterminded a violent home invasion burglary/robbery that was committed by Hector Fugon and Angel Elvra. Balderas testified he set up and attended the meeting where the home invasion was planned.

The State concealed from me valuable impeaching information during the punishment phase of this trial. The impeaching information concerned the State's only future dangerousness witness, David Balderas, whose testimony linked Reinaldo Dennes to prior violent crimes. The impeaching information about Balderas was not disclosed either before or during Dennes' trial. The potential impeaching evidence consisted of the following:

I now know that Balderas lied during Mr. Dennes' punishment phase when Balderas testified that he was never arrested on other charges that would have led him to talk to the D.A. about a home invasion robbery offense (the Tsang home invasion robbery). See State v. Dennes Trial Transcript, Punishment Hearing, Vol. 34, pp. 83-89.

I now know that Balderas had been arrested and charged on February 4, 1997 for a state charge of Felony Possession of Marijuana. He was charged in the 339th District Court, Harris County, Texas. See Exhibit A, David Balderas Felony Possession of Marijuana Indictment and Offense Reports.

Balderas testified he first talked to HPD Homicide about the Tsang burglary in February 1997. His felony arrest for Felony Possession of Marijuana occurred February 4, 1997. However, Balderas testified that he (Balderas) voluntarily approached HPD Homicide through his homicide detective brother-in-law in February 1997, and testified that he had not been arrested for something that brought him to speak to investigators. Balderas had been arrested, charged and was either an informant for the State or discussing his pending charges with the State in February of 1997. These facts and this arrest were never disclosed to me. Balderas' false testimony went uncorrected by the State.

I now know that David Balderas first spoke to HPD lead Homicide Detective Todd Miller in the Janos Szucs murder investigation that led to the indictment and prosecution of this case, as early as July 9, 1996. See Letter from HPD Sgts. Todd Miller and Jim Ladd to Chuck Rosenthal, District Attorney's Office (dated July 9, 1996), attached as Exhibit B ("I have also been in touch with David Balderas and he is still cooperative. Balderas' story differs from Fugon's slightly, but can be worked out I'm sure.").

Furthermore, I am now aware that the Houston Police Department and the Harris County District Attorney's Office knew that Balderas' version of the burglary conflicted with that of the two persons arrested, prosecuted and convicted for the Tsang home invasion robbery. Hector Fugon and Angel Elvira's statements, according to the Houston Police Department's records, conflicted with Balderas'. The HPD or the District Attorney's Office never turned over this critical Brady material to me. If all of this impeaching information had been disclosed, I would have been able to impeach Balderas concerning these issues.

Balderas' alleged co-conspirators in the Tsang home invasion robbery had gone to trial previously, and after trial, had been convicted and sentenced to fifty and thirty years imprisonment in the case of State v. Luis Hector Fugon, cause numbers 708544 and 708545, in the 232nd District Court, Harris County, Texas, and forty and twenty-five years imprisonment, in the case of State v. Francisco Tabares Elvira, cause numbers 708546 and 708547, in the 232nd District Court, Harris County, Texas, respectively. Thus Balderas, as their co-conspirator, was facing a similar thirty to fifty year sentence for his participation in this offense, but escaped that fate by cooperating with the police and prosecutors.

Assistant District Attorney Chuck Rosenthal (Dennes' initial prosecutor upon his arrest in March 1996 until January 1997) had approached Robert Alexander, attorney for Luis Hector Fugon, during Fugon's trial in July 1996. This was over a year before Balderas' testimony in the Dennes

punishment phase. Rosenthal had asked Mr. Alexander if his client wished to testify against Balderas. Rosenthal "indicated to me (Alexander) that Mr. Balderas allegedly murdered a jeweler on the southwest side of town, and that Chuck Rosenthal wanted to put a needle in his arm." Affidavit of Robert F. Alexander; State v. Hector Fugon Trial Transcript. The fact that Balderas was considered a suspect in the murder of Janos Szucs, and was threatened with the death penalty by Harris County District Attorney Chuck Rosenthal, was never disclosed to me for use in impeaching Balderas during his testimony.

Balderas' alleged co-conspirator in the Tsang home invasion robbery, Hector Fugon, had previously testified in his trial that he did not know a David Balderas. During their trial testimony in 1996, both Fugon and Elvira failed to identify Reinaldo Dennes as having participated in the Tsang home invasion robbery. These were facts that the Harris County District Attorney's Office was well aware of because it prosecuted both Fugon and Elvira.

Balderas said he met with Elvira, Fugon and Dennes during Dennes' trial. See State v. Dennes Punishment Phase Transcript Vol. 34, pp. 63-65. However, Angel Elvira, who was convicted of participating in the Tsang home invasion robbery along with Hector Fugon, never stated that he met with Fugon, Dennes and David Balderas at a Burger King restaurant to discuss carrying out the Tsang home invasion robbery. See Letter from HPD Sgts. Todd Miller and Jim Ladd to Chuck Rosenthal, District Attorney's Office (dated July 9, 1996), attached as Exhibit B.

Balderas referred to Angel Elvira as "Francisco Elvira" during Dennes' punishment phase trial. Angel Elvira testified during his trial that his true name was Angel Elvira and the reason he was charged as "Francisco Elvira" was because he had been stopped and arrested while using his brother, Francisco Elvira, driver's license. Balderas did not know Angel Elvira's correct name, but identified him by a false name. I could have impeached Balderas testimony that he was familiar with Elvira and personally knew him before.

The particular facts surrounding the Tsang home invasion extraneous offense were not disclosed by the State to me until August 13, 1997, only two to three days before the start of trial. The State had interviewed Balderas over a year before the start of the trial, and was aware for over a year of the discrepancies concerning Fugon's and Elvira's testimony. If I had notice of the Brady material contained in the differing versions I could have effectively impeached Balderas.

I now know that Assistant District Attorney Vinson misled the trial court during the pretrial hearing. I now know that Vinson testified incorrectly about how and when Balderas first

came to the attention of the police and the District Attorney's office. See State v. Dennes Trial Transcript, Vol. 24-A, pp. 4-17 Pretrial Hearings (August 18, 1997).

I now know that the Harris County District Attorney's Office and the Houston Police Department were aware as early as July 1996 that both Fugon and Elvira denied knowing Reinaldo Dennes or any Cubans. See Letter from HPD Sgts. Todd Miller and Jim Ladd to Chuck Rosenthal, District Attorney's Office (dated July 9, 1996), attached as Exhibit B. HPD Sgt. Todd Miller wrote to Rosenthal, "If we can get something worked out with Fugon concerning the home invasion, or

just go with Balderas' statement, and taking into account the Burglary, and the shooting Albert lied about, maybe we can get 'death' on Ray and or Albert." Id.

I am now aware that during this time period, and the years before and after, that Balderas was an informant for HPD. This information about his relationship with the State was revealed in a Federal proceeding. In 1999 Balderas was charged and plead guilty in the Southern District of Texas, Brownsville Division, to federal narcotics trafficking (cause number 7:98-CR-00154-2). During the sentencing hearing, before Judge Ricardo Hinojosa, Balderas' attorney, John Munier, represented the following:

MR. MUNIER: But the simple fact of the matter is my fellow, who has been a cooperating informant for years with the Houston Police Department -- as a matter of fact, ten days after I left the DA's Office in Houston in 1989, I was called by a couple of narcotics officers that I've known for years and asked me to shepherd him through the system when his problems came up because basically he had been cooperating with him on a long-term basis.

And this particular circumstance, he was set up by a Federal DEA informant, who was told to come down here and meet with these other two fellows, and he did exactly what he was told and then he was arrested.

He was kind of halfway between his Houston handlers and these fellows down here. And of course, he was just far enough off -- "off the reservation," as they would say, that we ended up -- after my analysis of the situation where we entered our guilty plea and we've come before the Court.

See United States v. David Balderas, Cause No. 7:98-CR-00154-2, United States District Court for the Southern District of Texas, Brownsville Division, Sentencing Hearing p. 5-6, attached as Exhibit C.

MR. MUNIER: No. No, I understand, Judge, but frankly, Judge, he [David Balderas] basically still maintains the posture of cooperation with the law enforcement. Whether he's paid or not, that's not the issue. He's been passing on information for years and to his own detriment. He's actually had a family member murdered early in the game, which I didn't also produce, but I didn't really want to do that, so.

THE COURT: Well, the wife --

MR. MUNIER: Yeah.

THE COURT: But there's no indication here that this was in relationship to his cooperation and assistance.

MR. MUNIER: Well, it was never quite proved, but no other reason for his wife being murdered. You know, I mean -- all I'm saying is this fellow is a creature of the system.

THE COURT: This is way back in 1988.

MR. MUNIER: That's true, Judge. That's what I'm -- I came across him in 1989 when I left the DA's Office and he even cooperated before I left the DA's Office in Harris County.

THE COURT: Okay. Well, he's been cooperating during all this period of time, but then there's been a continuation of arrests and dismissals on him, I guess.

MR. MUNIER: Well sometimes he's actually arrested as part of the operation, Judge.

THE COURT: It doesn't say that.

MR. MUNIER: I know it doesn't say that, and I doubt -- you know, this is a dirty, insidious game and that's what the problem is in some respects. You're right. You know, your inherent distrust of it is to no avail.

THE COURT: There's no inherent distrust of this. What the inherent distrust is if somebody acting like they're cooperating and providing assistance and being an informant when they're out violating the law. There's -- that makes a very serious distrust of that type of behavior and that's what we have here.

MR. MUNIER: Well you know, and it's the reason --

THE COURT: And believe me, he becomes worthless to the Government because you put this man on the stand the next time he testifies, what do you think the jury is going to think about this?

MR. MUNIER: Well usually the argument of the Prosecutor is well, you can't -- you know, fleas, as long -- fleas on the dog. That's usually what the argument is.

THE COURT: No, but in this case --

MR. MUNIER: They always adopt him somehow and get their convictions.

THE COURT: -- but in this case we have the added problem that while he's been adopted, he's running amok here.

MR. MUNIER: Well --

THE COURT: A lot of times it's stuff that's in the past and they're testifying about stuff they had done in the past, but they're no longer doing that. They're just being paid now and they're providing information and have rehabilitated themselves to some extent in some situations, they've actually rehabilitated themselves. But in his case, while he's being paid and providing the information, he's also violating the law. That's not the usual situation we get as witnesses from these people.

MR. MUNIER: Well Judge, as I was trying to explain, in this particular situation we had no clear orders on him and we left the reservation and that's why I pled -- that's why we pled guilty.

THE COURT: There were no orders. You didn't leave the reservation. That was his reservation. That's what he was involved in.

MR. MUNIER: Well, I --

THE COURT: I mean, he was involved in drug transactions. He wasn't doing his -- maybe I missed something, but is the claim here that he was doing undercover work or informant work here?

MR. MUNIER: They were -- they did not have clear signals with the HPD narcotics police officer that's been handling Mr. Bradley. And I've discussed that with Mr. Bradley, as well as Mr. Martinez.

THE COURT: Mr. Balderas, you mean?

MR. MUNIER: Yes, yes.

MR. MARTINEZ: Your Honor, I --

THE COURT: Is there a Mr. Bradley someplace?

MR. MUNIER: Well that's the HPD officer that's been handling him.

MR. MARTINEZ [FEDERAL PROSECUTOR]: HPD Detective Bradley, I spoke to him. He said absolutely in no way did this Defendant have permission to come down here to do a drug deal -- to get involved in a drug deal. He wasn't working for HPD. And then Officer Bradley said he would come down and testify to that effect. However, Officer Bradley did tell me that Mr. Balderas in the past had been a very reliable informant and that subsequent to his arrest that he had assisted the HPD in seizure of at least 2 kilos of cocaine, three to four individuals and over \$15,000 in cash and that's the basis for the Government's 42-month recommendation on a 5K1, Your Honor.

But absolutely in this case, Officer Bradley told me there was -- there's no way this man could have thought that he was going to be working as an undercover and that's why he pled guilty, I believe.

THE COURT: Well let me make some findings.

See United States v. David Balderas, Sentencing Hearing, Id. at 12-16, attached as Exhibit C.

It is now apparent to me that Balderas had been an HPD informant since at least 1989 to 1999 and the Harris County District Attorney's office and HPD knew it. This contrasts with Vinson's testimony during the motion for new trial hearing. See State v. Reinaldo Dennes, Motion for New Trial Hearing Transcript, Vol. 36, pp. 81-89, pp. 90-95.

I am now aware that the State failed to disclose all of this known impeaching information regarding David Balderas. As such, I was unable to use the information as trial counsel for Reinaldo Dennes.

In my opinion, as trial counsel for Reinaldo Dennes, the importance of the witness Balderas cannot be overstated. He was the only witness to provide additional evidence of criminal activity supporting allegations of future dangerousness. Additionally the evidence was of such a nature that its content was extremely damning. The evidence not revealed by the State is not only impeaching but eroded the integrity of the entire punishment phase of the trial.

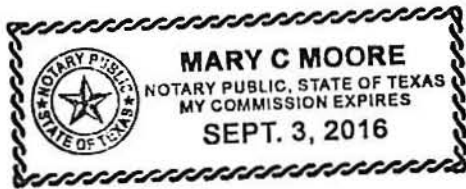
FURTHER AFFIANT SAYETH NOT.

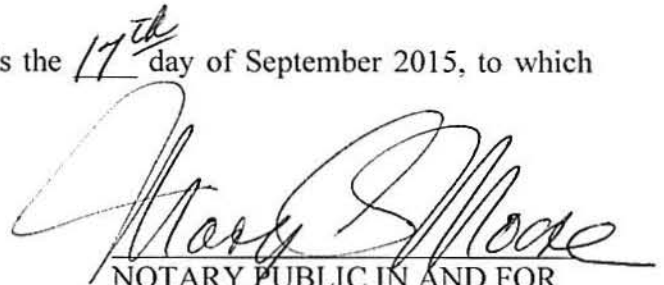
I DECLARE UNDER PENALTY OF PERJURY, PURSUANT TO 28 U.S.C. § 1746, THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on the 17 day of September 2015


Affiant

Sworn to and subscribed before me on this the 17th day of September 2015, to which
witness my hand and seal of office.




NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBITS

Exhibit A David Balderas Felony Possession of Marijuana Indictment and Offense Reports

Exhibit B Letter from HPD Sgts. Todd Miller and Jim Ladd to Chuck Rosenthal, District Attorney's Office (dated July 9, 1996)

Exhibit C United States v. David Balderas, Sentencing Hearing, Cause No. 7:98-CR-00154-2, United States District Court for the Southern District of Texas, Brownsville Division (July 29, 1999)

Exhibit A

David Balderas Felony Possession of Marijuana Indictment and Offense Reports

THE STATE OF TEXAS
VS.

DAVID RENE BALDERAS
16706 CARBRIDGE
HOUSTON, TX

D.A. LOG NUMBER: 331506

CJIS TRACKING NO.: 9003170754-A001

SPN: 00406242/994

DOB: w/m 7-4-64

DATE PREPARED: 2/5/97

BY: NJC DA NO: 699

AGENCY: HPD

O/R NO: 1548097D

ARREST DATE: 2-4-97

NCIC CODE: 3562 20

FELONY CHARGE:

POSSESSION OF MARIHUANA

CAUSE NO: 744292

HARRIS COUNTY

DISTRICT COURT NO: 339

RELATED CASES: CO-DEF: P. GARCIA (2FEI)

BAIL: \$ 1,200,000.20,000.00
PRIOR CAUSE NO:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas, **DAVID RENE BALDERAS**, hereafter styled the Defendant, on or about **FEBRUARY 4, 1997**, did then and there unlawfully, intentionally and knowingly possess marihuana in a useable quantity of more than fifty pounds and less than two thousand pounds.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

FOREMAN 228th

Edwin Hayes

FOREMAN OF THE GRAND JURY

INDICTMENT (STATE'S COPY)

THE STATE OF TEXAS
VS.

DAVID RENE BALDERAS
16706 CARBRIDGE
HOUSTON, TX

D.A. LOG NUMBER: **331506**

CJIS TRACKING NO.: **9003170754-A001**

SPN: 00406242/994

DOB: wm 7-4-64

DATE PREPARED: 2/5/97

BY: NJC DA NO: 699

AGENCY: HPD

O/R NO: 1548097D

ARREST DATE: 2-4-97

NCIC CODE: 3562 20

FELONY CHARGE:

POSSESSION OF MARIHUANA

CAUSE NO: 744292

HARRIS COUNTY

DISTRICT COURT NO: 339

RELATED CASES: CO-DEF: P. GARCIA (2FEI)

BAIL: \$ 1,200,000.

PRIOR CAUSE NO:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Comes now the undersigned Assistant District Attorney of Harris County, Texas, in behalf of the State of Texas, and presents in and to the District Court of Harris County, Texas, that in Harris County, Texas, **DAVID RENE BALDERAS**, hereafter styled the Defendant, on or about **FEBRUARY 4, 1997**, did then and there unlawfully, intentionally and knowingly possess marihuana in a useable quantity of more than fifty pounds and less than two thousand pounds.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS

BAR CARD NO.

INFORMATION

THE STATE OF TEXAS
VS.

DAVID RENE BALDERAS
16706 CARBRIDGE
HOUSTON, TX

D.A. LOG NUMBER: **331506**

CJIS TRACKING NO.: **9003170754-A001**

SPN: 00406242/994

DOB: wm 7-4-64

DATE PREPARED: 2/5/97

BY: NJC DA NO: 699

AGENCY: HPD

O/R NO: 1548097D

ARREST DATE: 2-4-97

NCIC CODE: 3562 20

FELONY CHARGE:

POSSESSION OF MARIHUANA

CAUSE NO: 744292

HARRIS COUNTY

DISTRICT COURT NO: 339

RELATED CASES: CO-DEF: P. GARCIA (2FEI)

BAIL: \$ 1,200,000.

PRIOR CAUSE NO:

**WAIVER OF CONSTITUTIONAL RIGHTS, AGREEMENT TO STIPULATE, AND JUDICIAL
CONFESSION**

In open court and prior to entering my plea, I waive the right of trial by jury. I also waive the appearance, confrontation, and cross-examination of witnesses, and my right against self-incrimination. The charges against me allege that in Harris County, Texas, **DAVID RENE BALDERAS**, hereafter styled the Defendant, on or about **FEBRUARY 4, 1997**, did then and there unlawfully, intentionally and knowingly possess marihuana in a useable quantity of more than fifty pounds and less than two thousand pounds.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

I understand the above allegations and I confess that they are true and that the acts alleged above were committed on _____

In open court I consent to the oral and written stipulation of evidence in this case and to the introduction of affidavits, written statements, of witnesses, and other documentary evidence. I am satisfied that the attorney representing me today in court has properly represented me and I have fully discussed this case with him.

I intend to enter a plea of guilty and the prosecutor will recommend that my punishment should be set at _____ and I agree to that recommendation. I waive any further time to prepare for trial to which I or my attorney may be entitled.

DEFENDANT

Sworn to and Subscribed before me on _____

HARRIS COUNTY DEPUTY DISTRICT CLERK

I represent the defendant in this case and I believe that this document was executed by him knowingly and voluntarily and after I fully discussed it and its consequences with him. I believe that he is competent to stand trial. I agree to the prosecutors recommendation as to punishment. I waive any further time to prepare for trial to which I or the defendant may be entitled.

DEFENDANT'S ATTORNEY (PRINT)

SIGNATURE OF DEFENDANT'S ATTORNEY

I consent to and approve the above waiver of trial by jury and stipulation of evidence

ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS

This document was executed by the defendant, his attorney, and the attorney representing the State, and then filed with the papers of the case. The defendant then came before me and I approved the above and the defendant entered a plea of guilty. After I admonished the defendant of the consequences of his plea, I ascertained that he entered it knowingly and voluntarily after discussing the case with his attorney. It appears that the defendant is mentally competent and the plea is free and voluntary. I find that the defendant's attorney is competent and has effectively represented the defendant in this case. I informed the defendant that I would not exceed the agreed recommendation as to punishment.

JUDGE PRESIDING

PLEA OF GUILTY

OFFENSE: PoChCAUSE NO. 744792

THE STATE OF TEXAS

IN THE 33 DISTRICT COURT

IN COUNTY CRIMINAL COURT AT LAW NO. _____

VS.

David BalderrasOF
HARRIS COUNTY, TEXAS

MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitled and numbered criminal action for the following reason:

- ☐ The Defendant was convicted in another case.
☐ In custody elsewhere.
☐ Old case, no arrest.
☐ Missing witness.
☐ Request of complaining witness.
☐ Motion to suppress granted.
☐ Co-Defendant tried, this Defendant testify.
☐ Insufficient evidence.
☐ Co-Defendant convicted, insufficient evidence this Defendant.
☐ Case refiled as cause no. _____
☐ Other.

EXPLANATION:

WHEREFORE, PREMISES CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted,

[Signature]
 Assistant District Attorney
 Harris County, Texas

ORDER

The foregoing motion having been presented to me on this the 9th day of May, A.D. 1997 and the same having been considered, it is, therefore, ORDERED, ADJUDGED, and DECREED that said above entitled and numbered cause be and the same is hereby dismissed.

[Signature]
 JUDGE
339 DISTRICT COURT
 COUNTY CRIMINAL COURT AT LAW NO. _____
 HARRIS COUNTY, TEXAS

11-147

White - Original

Yellow - Defendant's Copy

Pink - State's Copy

REPORT: DIM601
DATE: 02/05/97

JUSTICE INFORMATION MANAGEMENT SYSTEM
D. INTAKE MANAGEMENT SYSTEM
DEFENDANT DESCRIPTORS

TIME: 12:44

TRANSACTION #.: 331498
IN CUSTODY....: Y
DATE OF ARREST: 02/04/1997

D.A. LOG #: 331506
ID BY PRINTS: Y
TIME OF ARREST: 1925

SPN.....: 00406242
AFIS NUMBER...: 674040068444
DEFENDANT NAME: BALDERAS, DAVID RENE
ALIAS NAME....:
ALIAS SPN.....:

US CITIZEN....: Y
PLACE OF BIRTH: TX
RACE.....: W
MARITAL STATUS: MA
HAIR.....: BLK
SCARS.....:
SEX: M
BUILD: MED
SKIN: MBR
INS#:
CITY OF BIRTH: HOU
DOB: 07/04/1964
HEIGHT: 505
EYES: BRO
WEIGHT: 175

STREET ADDRESS: 16706 CARBRIDGE
CITY.....: HOU, TX
PHONE.....: (713) 855 - 6703
ZIP:

PRIOR ARREST?: Y
AGENCY ID #.: HPD 365936
ALIAS SPN(S).:
DL#.....:
FBI#:
SSN:
DL ST: TX
STATE ID #: TX02939745
SD#: 213924

EMPLOYER.....: NONE

CO-DEFENDANTS? YES
GARCIA, PETE

DOES THE DEFENDANT HAVE A SPN? Y N

REPORT: DIM601
DATE: 02/05/1997

JUSTICE INFORMATION MANAGEMENT SYSTEM
A. INTAKE MANAGEMENT SYSTEM
PROBABLE CAUSE INFORMATION

PAGE: 1
TIME: 12:44

TRANSACTION NUMBER: 331498

DA LOG NUMBER: 331506

DISTRICT ATTORNEY.: COTTON, TROY A

DA SPN: 0699

Co-A

IN CUSTODY: Y

TOTAL # OF CHARGES: 1

DEFENDANT: BALDERAS, DAVID RENE

RACE: W SEX: M DOB: 07/04/1964 SPN: 00406242 AFIS # 674040068444

ADDRESS: 16706 CARBRIDGE

CITY...: HOU, TX

ZIP:

PHONE...: (713) 855-6703

CO-DEFENDANT: PETE GARCIA

DATE OF ARREST: 02/04/1997

ARREST TIME: 1925

POLICE AGENCY.: HOUSTON POLICE DEPARTMENT

OFFICER NAME...: BRADLEY, RM

PAYROLL NUMBER: 76750

BEEPER NUMBER.: (713) 763-5351

OFFICER PHONE: (713) 235-0220

BADGE NUMBER.: 2147

FAX NUMBER...:

FAX LOCATION.:

CHARGE(1): POM

FELONY

BOND AMOUNT: \$1,200,000.

(76)

CJIS TRACKING #...: 9003170754-A001

OFFENSE REPORT #...: 1548097 D HPD

DATE OF OFFENSE...: 02/04/1997

ADDRESS OF OFFENSE: 1400 FRANKLIN

OFFENSE CITY.....: HOU, TX

ZIP:

DRUG OFFENSE: POSSESS/CONCEAL

DRUG TYPE...: MARIJUANA

DRUG AMOUNT.: 200 LBS (2000 LBS

COMPLAINANT/WITNESS(1): STATE OF TEXAS

DAMAGE/RESTITUTION:

TOTAL RESTITUTION (AMOUNT OF DAMAGE): \$.00

DESCRIPTION OF PROPERTY

VALUE

 *
 * NCIC CHECK: CLEAR: ATTACHED: *
 *
 * JIMS CHECK: CLEAR: ATTACHED: *
 *

2-4-97

7:30P

1400 Franklin

SUMMARY OF FACTS:

OFFS FROM HPD NARCOTICS AND DEA RECEIVED INFORMATION THAT THE DEFS WERE TRAFFICKING IN MARIJUANA. THE OFFS AND AGENTS ESTABLISHED SURVEILLANCE ON THE DEF GARCIA'S HOME. THE DEF GARCIA WAS OBSERVED ARRIVING AT THE HOUSE IN A BLUE GRAND AM. THE DEF GARCIA WAS OBSERVED MAKING 4 TRIPS FROM THE GARAGE TO THE CAR. EACH TRIP THE DEF GARCIA CARRIED A LARGE BLACK GARBAGE BAG AND PLACED IN IN THE TRUNK OF THE CAR. THE DEF BALDERAS ARRIVED AND BOTH DEFS DEPARTED TOGETHER IN THE GRAND AM WITH THE DEF BALDERAS DRIVING. THE DEF BALDERAS DROVE THROUGH THE NEIGHBORHOOD MAKING NUMEROUS TURNS. THE DEF THEN ENTERED THE FREEWAY GOING SOUTHBOUND AND WAS MAKING NUMEROUS LANE CHANGES. THE DEF THEN CUT ACROSS 4 LANES OF TRAFFIC IN A VERY ABRUPT MANNER TO ENTER I-10. THE DEF, WHO WAS DRIVING IN ACCESS OF 75 MILES PER HOUR THE ABRUPTLY EXITED THE FREEWAY INTO THE DOWNTOWN AREA. THE MANNER IN WHICH THE DEF WAS DRIVING WAS INDICATIVE OF WHAT IS TERMED HEAT RUNS, WHICH ARE EVASIVE AND DETECTION ACTIONS TAKEN BY SOMEONE, WHO IS ATTEMPTING TO DETERMINE IF THEY ARE BEING FOLLOWED. THE DEFS WERE STOPPED BY MARKED AP'TROL UNITS FOR SPEEDING AND OTHER TRAFFIC VIOLATIONS. THE DEFS WERE ADVISED OF THE THEIR LEGAL WARNING BY AGENTS FROM THE DEA. THE DEF GARCIA CLAIMED OWNERSHIP OF THE CAR AND WAS PRESENTED WITH A CONSENT TO SEARCH FORM FOR THE VEHICLE AND HIS HOME. THE DEF VOLUNTARILY SIGNED THE FORMS AND STATED THAT THE CAR CONTAINED APPROX 200 LBS OF MARIJUANA AND THAT HE HAD ANOTHER 60 LBS AT THE HOUSE. THE DEF BALDERAS STATED THAT HE HAD SET UP THE MARIJUANA DEAL AND THAT THE BUYERS WERE WAITING IN THE HOBBY AIRPORT AREA WITH THE MONEY. THE OFFICERS AND AGENTS WENT TO THE DEF GARCIA'S HOME AND HE DIRECTED THE AGENTS TO THE REMAINING MARIJUANA AND THE 143 GRAMS OF COCAINE, WHICH FIELD TESTED POSITIVE. THE DEF BALDERAS DIRECTED THE OFFS TO THE LOCATION OF THE BUYERS, WHERE A LARGE QUANTITY OF US CURRENCY WAS SEIZED.

THE MARIJUANA WEIGHED APPROX 272 LBS WITH A STREET VALUE OF \$627,750.00
 THE COCAINE WEIGHED APPROX 143 GRAMS WITH A STREET VALUE OF \$14,300.00

Lab - Marijuana 272.1 lbs
 Cocaine (Garcia) 109.1 gr

METHOD OF IDENTIFICATION:
ARRESTED DURING COURSE OF OFFENSE

PRINTED: 02/05/1997 12:44 (BUGAJ, JACKIE DALE) DIM601

CURRENT INFORMATION REPORT NON-PUBLIC

HOUSTON POLICE DEPARTMENT

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CURRENT INFORMATION REPORT Incident no. 013980077 0

Offense- POSS MARIJUANA (FEL)/MARIJU, HASH

UCR Offense codes- 18111/00000/00000

Premises- ROAD/STREET/SIDEWALK

Weather- COOL

Location: Street no- 001400 Name- FRANKLIN

City-HOUSTON

County-HARRIS

Kmap-493M Dist- 1 Beat- 1A10

Neighborhood code-00/01 Desc-DOWNTOWN BUSINESS DISTRICT

Begin date- 10 02/06/97 Time- 1920 End date- / / Time-

Received/Employee: Name-LAPTOR

No.-000000 Date-02/12/97 Time-1124

Drug crime related-N

Hate crime related-N

COMPLAINANT(S)

No-01 Business name-STATE OF TEXAS

Address-61 KIESNER HOUSTON, TX

Phone: Home-(000) 000-0000 Business-(713) 250-0220 Ext-

Force used against complainant- N

WITNESS(S)

NONE

REPORTER(S)

NONE

VEHICLE(S)

No- 01 Type-GENERAL Complaint no- Disposition-PRISONER

Yr-87- Make-PONTIAC Model- GRAND AM Style-CAR 2-DOOR

License: No-RK1020 State-TX Year-97 Month-04 Type-CAR

VIN-1G2NE140N0882807 Colors: 1st-GREEN 2nd-

Recovery: Location-

Dist-00 Beat-00 00

HCID misc-TOWED TO 2104 L/ONS

ARTICLES

No- 01 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00

Item type-NARCOTICS UCR class-00

Description-BAG #1 CONTAINING NUMEROUS BRICKS OF PLANT SUBSTANCE. APPROX 02.0 LBS.

Recovery date-02/04/97 Recovery value-\$ 0.00

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NO- 02 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG #2 CONTAINING NUMEROUS BRICKS OF PLANT SUBSTANCE. APPROX 49.0
LBS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 03 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG #3 CONTAINING NUMEROUS BRICKS OF PLANT SUBSTANCE. APPROX 34.0
LBS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 04 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG #4 CONTAINING NUMEROUS BRICKS OF PLANT SUBSTANCE. APPROX 36
LBS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 05 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG #5 CONTAINING ONE BRICK OF PLANT SUBSTANCE. APPROX 4.0 LBS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 06 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG #6 CONTAINING ONE BRICK OF PLANT SUBSTANCE. APPROX 3.0 LBS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 07 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG CONTAINING THREE PLANT SUBSTANCE. APPROX 7 LBS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 08 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-UNTYPED BAG PLANT SUBSTANCE RECOVERED.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 09 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG CONTAINING PLANT SUBSTANCE. APPROX 24.0 GRAMS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 10 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG CONTAINING PLANT SUBSTANCE. APPROX 110.0 GRAMS.
Recovery date-02/04/97 Recovery value-\$ 0.00

NO- 11 Disposition-EVIDENCE Property tag no-0-0000-00 Complainant no-00
Item type-NARCOTICS UCR class-00
Description-BAG CONTAINING PLANT SUBSTANCE. APPROX 308.0 GRAMS.
Recovery date-02/04/97 Recovery value-\$ 0.00

No- 13 Disposition-EVIDENCE Property tag no-0-0000-00 Complaint no-00
 Item type-Film UCR class-00
 Description-ONE ROLL OF 35MM FILM. SCENE PHOTOS.
 Recovery date-02/04/97 Recovery value-\$ 0.00

END OF PAGE USE

ORIGINAL INFORMATION REPORT NON-PUBLIC

HOUSTON POLICE DEPARTMENT

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OFFENSE REPORT

Incident no. 015458097 0

SUPPLEMENT(S)

No-0001

Offense- POSS MARIJUANA (FEL)/MARIJU, HASH

Street location information

Number- 1400 Name-FRANKLIN Type- Suffix-

Apt no- Name-AUSTIN Type- Suffix-

Date of offense-02/04/97 Date of supplement-02/13/97

Compl(s) Last-STATE OF TEXAS First- Middle-
Last-

Recovered stolen vehicles information

Stored- by- PH#- (000) 000-0000

Officer- SNOWMAN Emp#-102193 Shift- Div/Station-CRIME LAB

SUPPLEMENT NARRATIVE

SUSPECT(S): TIMOTHY K. ROBERTSON

REF IL97-1488

CRIMINALIST: SNOWMAN

EVIDENCE SUBMITTED

___ CONTAINER(S) CHUNK SUBSTANCE	___ CIGARETTE(S)	___ TABLET(S)
___ CONTAINER(S) POWDER	___ CIGARETTE STUB(S)	___ CAPSULE(S)
___ 4 CONTAINER(S) PLANT SUBSTANCE	___ CIGAR(S)	___ PIPE(S)
___ CONTAINER(S) LIQUID	___ CIGAR STUB(S)	___ SYRINGE(S)
___ OTHER:		

RESULTS OF ANALYSIS

MARIJUANA - APPROXIMATELY 2.7 OUNCES

Supplement entered by = 102193

Report reviewed by-UF

Employee number-105/30

Date cleared- 02/04/97

No-0002

Offense- POSS MARIJUANA (FEL)/MARIJU, HASH

Street location information

Number- 1400 Name-FRANKLIN Type- Suffix-

Apt no- Name-AUSTIN Type- Suffix-

Date of offense-02/04/97 Date of supplement-02/24/97

Compl(s) Last-STATE OF TEXAS First- Middle-
Last-

Recovered stolen vehicles information

Stored- by- PH#- (000) 000-0000

Officer- K. SNOWMAN Emp#-102193 Shift-1 Div/Station-CRIME LAB

Incident No. 015458097 D

OFFENSE REPORT

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SUPPLEMENT NARRATIVE

SUSPECT (S): PETE GARCIA 06-23-64 REF: L 97-1489

DAVID R. BOLDAROS, 07-04-64

EVIDENCE SUBMITTED BY J.J. REYES PR# 43126 DATE: 02-04-97

EVIDENCE SUBMITTED

(1) CONTAINER (S) POWDER (1) CIGARETTE (S)
(13) CONTAINER (S) PLANT SUBSTANCE (7) CIGARETTE STUB (S)
(X) OTHER 2 ITEMS WITH RESIDUE, SUITCASE, 3 BAGS, 1 WRAPPER

RESULTS OF ANALYSIS:

COCAINE- APPROXIMATELY 109.1 GRAMS OF 49.7 % (POWDER)

~~NON-ILICIT- APPROXIMATELY 272.1 POUNDS (124.7 KILOGRAMS, REMAINING EVIDENCE)~~

THE 3 BAGS AND WRAPPER WERE TRANSFERRED TO LATENT LAB EXAMINER SMITH, PR#8/S41
ON FEBRUARY 11, 1997.

THE SUITCASE WILL BE TRANSFERRED TO THE PROPERTY ROOM.

EBY/LFS/IE

Supplement entered by - 98/08

Report reviewed by-PIT

Date cleared- 02/04/97

Employee number-060965

and County No. 0140000720 - CLARK COUNTY INFORMATIONAL REPORT
 0140000720 - CLARK COUNTY INFORMATIONAL REPORT

00000001(S)

RD-01 Disposition-ARRAIGNED / CHARGED APD-no-449746
 Name-Last-BLINDERAS First-DAVID Middle-KENE
 Address-16706 CHAKKIOSE/HOUSTON, TX
 Race-W Sex-M Age-31-00 Hispanic-H Date of Birth-07/04/84
 Height-505 To- Weight-175 To-
 Hair-Color-BLACK Type-STRAIGHT Length-LONG
 Complexion-M BROWN Facial Hair-MUSTACHE
 Speech/Accent-ENGLISH/HISPANIC Eye Color-BROWN
 Present-ARRAIGNED POLV-S BLU/JEANS BLU
 Price-TDL \$ [REDACTED] SS # [REDACTED] /CHARGES: F01/F08/ABSE 744292/COURT: 339DC/BOND: 92,000,000.00

RD-02 Disposition-ARRAIGNED / CHARGED APD-no-467477
 Name-Last-GARCIA First-PATE Middle-
 Address-720 WALLING/HOUSTON, TX
 Race-W Sex-M Age-32-00 Hispanic-H Date of Birth-06/26/84
 Height-506 To- Weight-180 To-
 Hair-Color-BLACK Type- Length-MEDIUM
 Complexion-M BROWN Facial Hair-MUSTACHE
 Speech/Accent-ENGLISH/HISPANIC Eye Color-BROWN
 Present-ARRAIGNED POLV-S BLU/JEANS BLU
 Price-TDL \$ [REDACTED] SS # [REDACTED] /CHARGES: F01/F08/ABSE 744290/744291/COURT: 339DC/BOND: 51,200,000.00

RD-03 Disposition-ARRAIGNED / RELEASED APD-no-060606
 Name-Last-SHERLOCK First-THOMAS Middle-MARY
 Address-14400 WINDYBROOK/IRVING, TX
 Address-14400 WINDYBROOK/IRVING, TX
 Race-W Sex-F Age-41-00 Hispanic-H Date of Birth-06/07/66
 Height-506 To- Weight-140 To-
 Hair-Color-BROWN Type- Length-Short
 Complexion-Fair Facial Hair-
 Speech/Accent-ENGLISH Eye Color-
 Price-SS # [REDACTED] VIN# [REDACTED] NO CHARGES

RD-04 Disposition-ARRAIGNED / RELEASED APD-no-000000
 Name-Last-MAHER First-THOMAS Middle-THOMAS
 Address-2834 LINDY ROBERTS/HOUSTON, TX
 Race-W Sex-M Age-28-00 Hispanic-H Date of Birth-06/06/87
 Height-511 To- Weight-170 To-
 Hair-Color-BROWN Type- Length-
 Complexion-M BROWN Facial Hair-
 Speech/Accent-ENGLISH/HISPANIC Eye Color-BROWN
 Price-TDL \$ [REDACTED] SS # [REDACTED] NO CHARGES

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NO-06 Disposition-RELEASED /RELEASED HPD-no-000000
 Name- LAST-CHAVEZ FIRST-REFUGIO MIDDLE-GERARDO
 Address-11037 BRADSHAW/HOUSTON,
 Race-M SEX-M Age-20-00 Hispanic Date of Birth-03/03/71
 Height-504 cm Weight-220 lb
 Hair- Color-BLACK Type- Length-SHORT
 Complexion-BROWN Facial Hair-
 Speech/Hearing-ENGLISH/HEARD age color-BROWN
 Race-IDL N [REDACTED] /SS N [REDACTED] NO CHARGES

NO-06 Disposition-RELEASED /RELEASED HPD-no-000000
 Name- LAST-ROBERTSON FIRST-LENNY MIDDLE-KEITH
 Address-7300 DAYTON/HOUSTON,
 Race-M SEX-M Age-40-00 Hispanic Date of Birth-03/18/36
 Height-511 cm Weight-190 lb
 Hair- Color-BROWN Type- Length-
 Complexion- Facial Hair- MUSTACHE AND BEARD
 Speech/Hearing-ENGLISH age color-BROWN
 Race-IDL N [REDACTED] NO CHARGES

END SUMMARY

Report written by: [REDACTED] Employee Number: 070700

Officer: [REDACTED] Interviewer: [REDACTED]
 Report Number: 070700 Employee Number: 100700
 Date: 03/03/71

INTRODUCE

INTRODUCTION

OFFICERS [REDACTED] AND [REDACTED] WHO ARE ASSIGNED TO THE HARBORLAND DIVISION, WERE
 CONTACTED BY [REDACTED] (07/71) FOR INTERVIEW OF THE [REDACTED] IN REGARD TO AN ON-
 GOING HARBORLAND INVESTIGATION.

THE OFFICERS AND THE AGENTS HAVE RECEIVED INFORMATION REGARDING THE FOLLOWING
 TRAFFICKING ACTIVITIES OF THE SUSPECTS ANDERSON AND GORDON IN NOVEMBER 90. THE
 OFFICERS AND THE AGENTS HAVE SURVEILLED THE SUSPECTS ON NUMEROUS OCCASIONS SINCE
 FIRST RECEIVING THE INFORMATION.

SCENE SUMMARY

SCENE #1

THE TRAFFIC STOP WAS DONE IN THE 1700 BLOCK OF FRANKLIN, HOUSTON, HARRIS
 COUNTY, TEXAS.

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THE TIME OF THE DAY WAS APPROX 1740 HRS. THE LIGHTING WAS PROVIDED BY ARTIFICIAL LIGHTS. THE WEATHER WAS WINDY AND DRY.

SCENE #2

THE CURRENT TO SEARCH OF THE SUSPECT BARKLEY'S HOME WAS DONE AT 928 WALLING, AUSTON, HARRIS COUNTY, TEXAS.

THIS SEARCH WAS COMPLETED BY THE AGENTS OF THE DEN. THE HOUSE WAS FOUND TO BE A TWO BEDROOM HOUSE WITH A GARAGE.

THE TIME WAS APPROX 2100 HRS.

SCENE #3

THE CURRENT TO SEARCH OF THE SUSPECT ROBERTSON'S HOME WAS AT 7300 CAYTON, AUSTON, HARRIS COUNTY, TEXAS.

THE SEARCH WAS COMPLETED BY HFD NARCOTICS OFFICERS AND AGENTS OF THE DEN AND PASADENA NARCOTICS OFFICERS.

THE HOUSE WAS FOUND TO BE A THREE BEDROOM, TWO BATHROOM STRUCTURE WITH A DETACHED GARAGE.

THE TIME WAS APPROX 2000 HRS.

DETAILS OF DEFENSE

020777 MONDAY.

ON MONDAY MORNING THE OFFICERS FROM SUSPECT BARKLEY'S AND BARKLEY, WHO THE OFFICERS AND THE AGENTS HAVE SURVEILLED IN PREVIOUS OPERATIONS, WERE SHOWN ACTIVITY AND THE AGENTS REQUESTED THE OFFICERS REQUESTED TO FOLLOW THE SUSPECTS.

THE OFFICERS MET WITH AGENTS OF THE DEN NEAR THE HOME OF SUSPECT BARKLEY (928 WALLING) AND ESTABLISHED SURVEILLANCE ON THE SUSPECT BARKLEY AND THE SUSPECT BARKLEY, WHO WAS AT THE LOCATION.

DURING THE COURSE OF THE SURVEILLANCE THE OFFICERS AND THE AGENTS LOST THE SUSPECTS WHEN THEY DEPARTED THE LOCATION AND THE SURVEILLANCE WAS DISCONTINUED.

020777 TUESDAY.

APPROX 1430 HRS:

SURVEILLANCE WAS RE-ESTABLISHED AT THE SUSPECT BARKLEY'S HOME (928 WALLING).

APPROX 1830 HRS:

THE SUSPECT FRED BARKLEY ARRIVED AT THE HOUSE DRIVING THE CAR. THE SUSPECT IS ALONE.

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APPROX 1845 HRS:

THE SUSPECT GARCIA IS OBSERVED CARRYING NUMEROUS BLACK PLASTIC BAGS OUT OF THE HOUSE AND PLACING THEM INTO THE TRUNK OF THE GRAND AM. THE BAGS ARE BULKY AND HEAVY.

APPROX 1900 HRS:

THE SUSPECT BALDERAS ARRIVES AT THE WALLING LOCATION.

APPROX 1910 HRS:

THE SUSPECTS GARCIA AND BALDERAS ENTER THE GRAND AM AND DEPART THE LOCATION.

THE SUSPECT BALDERAS WAS DRIVING AND THE SUSPECT GARCIA WAS THE PASSENGER.

THE SUSPECTS PROCEEDED THROUGH THE RESIDENTIAL NEIGHBORHOOD AVOIDING THE MAIN THOROUGHFARES. THIS IS ALSO A COMMON PRACTICE OF TRAFFICKERS TO DETECT SURVEILLANCE.

THE SUSPECTS EVENTUALLY ENTERED THE NORTH FREEWAY GOING SOUTHBOUND. THE SUSPECTS MADE NUMEROUS LANE CHANGES AND CUT ACROSS THREE Lanes OF TRAFFIC TO ENTER THE EAST FREEWAY GOING EASTBOUND. THE SUSPECTS WERE SPEEDING IN ACCESS OF 70 MPH IN A POSTED 55 MPH SPEED ZONE.

APPROX 1920 HRS:

THE SUSPECTS WERE STOPPED BY MARKED PATROL UNITS FOR THE VIOLATION DESCRIBED ABOVE OF THE SUSPECT BALDERAS.

THE SUSPECTS WERE DETAINED AND ADVISED OF THE ARRESTED INVESTIGATION. THE SUSPECT GARCIA WAS ADVISED OF HIS LEGAL RIGHTS BY S/A OWEN AND THE SUSPECT WAS ASKED IF THE VEHICLE BELONGED TO HIM AND THE SUSPECT STATED THAT THE VEHICLE IS HIS AND HE IS PROPERLY A CURRENT LICENSE FOR HIS VEHICLE AND HOME OF S/A OWEN. THE SUSPECT GARCIA VOLUNTARILY SIGNED THE FORMS AND FREELY ADMITS THAT THERE IS APPROX 500 LBS OF MARIJUANA IN THE TRUNK OF THE CAR AND APPROX 60 LBS STICK TO HIS HOUSE.

THE SUSPECT BALDERAS AFTER BEING MADE AWARE OF HIS LEGAL RIGHTS STATED TO S/A OWEN THAT THE MARIJUANA IN THE TRUNK BELONGED TO HIM AND THAT HE HAD SET UP THE DEAL AND THAT THE SUSPECT GARCIA WAS ONLY HELPING HIM.

THE SUSPECT BALDERAS FURTHER ADVISED THAT THE BUYERS FOR THE MARIJUANA WERE WAITING AT A PRIVATE RESIDENCE IN THE HOBBY AIRPORT AREA. THE SUSPECT BALDERAS ASSISTED THE OFFICERS AND AGENTS IN FURTHERING THE INVESTIGATION BY POINTING OUT THE HOUSE THE BUYER WAS WAITING AT. THIS HOUSE WAS FOUND TO CARRY THE ADDRESS OF 7300 CAYTON, HOUSTON, HARRIS COUNTY, TEXAS.

ONCE THE FORM ALLOWING THE SEARCH OF THE VEHICLE WAS SIGNED OFFICER BRADLEY OPENED THE TRUNK. THE TRUNK WAS FOUND TO CONTAIN FOUR LARGE PLASTIC BAGS BEARING THE CITY OF HOUSTON SEAL. THE FOUR BAGS WERE FOUND TO CONTAIN A LARGE QUANTITY OF COMPRESSED BRICKS OF MARIJUANA (ARTICLES 1 THROUGH 4). THE OFFICER ALSO FOUND ONE COMPRESSED BRICK OF MARIJUANA (ARTICLE 5).

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THE AGENTS FROM THE DEA ALONG WITH A UNIFORMED PATROL UNIT AND THE SUSPECT GARCIA THEN PROCEEDED TO 728 WALLING TO SEARCH THE HOUSE. SEE REAL EVIDENCE FOR DETAILS REGARDING ARTICLES 6 THROUGH 12.

OFFICER BRADLEY AND OTHER AGENTS ALONG WITH PASADENA NARCOTICS OFFICERS WENT TO 7300 DAYTON TO FURTHER THE INVESTIGATION.

ONCE AT THE DAYTON LOCATION OFFICER BRADLEY AND S/A OWEN SPOKE WITH THE OWNER OF THE HOME, WHO WAS THE SUSPECT ROBERTSON. THE SUSPECT WAS ADVISED OF THE INVESTIGATION AND PRESENTED WITH A CONSENT TO SEARCH FORM FOR HIS HOME. THE SUSPECT ROBERTSON FREELY AND VOLUNTARILY SIGNED THE FORM.

THE SUSPECT ROBERTSON THEN DIRECTED S/A OWEN TO THE MONEY THAT WAS TO BE USED FOR THE PURCHASE OF THE MARIJUANA. THE AGENT WAS ALSO DIRECTED TO A SMALL AMOUNT OF MARIJUANA (ARTICLES 13 AND 14).

OFFICER BRADLEY INTERVIEWED THE SUSPECT ROBERTSON AND THIS INTERVIEW WAS TAPE RECORDED BUT THE TAPE FAILED TO RECORD. THE FOLLOWING IS A SYNOPSIS OF THE INTERVIEW, NOT VERBATIM.

THE SUSPECT ROBERTSON TOLD THE OFFICER AND S/A AGENT OWEN THAT THE SUSPECT BENDER WAS THE BUYER OF THE MARIJUANA. THE SUSPECT BENDER CAME TO HIM AND ASKED FOR ASSISTANCE IN MAKING THE ARRANGEMENTS.

THE SUSPECT ROBERTSON CONTACTED THE SUSPECT LOPEZ AND TOLD HIM OF THE SUSPECT BENDER'S DESIRE TO PURCHASE THE MARIJUANA. THE SUSPECT ROBERTSON EVENTUALLY INTRODUCED THE SUSPECT BENDER TO THE SUSPECT LOPEZ, AND BROUGHT THE SUSPECT CALANCA ALONG.

THE AGREED PRICE FOR THE MARIJUANA WAS \$20,000.00 AND THAT THE SUSPECT ROBERTSON WAS TO RECEIVE \$5000.00 FOR GETTING THE BUYER AND SELLERS USE HIS GARAGE TO COMPLETE THE TRANSACTION. THIS PAYMENT WAS TO BE MADE TO SUSPECT ROBERTSON BY THE SUSPECTS LOPEZ AND CALANCA.

THE OTHER SUSPECTS WERE INTERVIEWED IN THE WORKS. ALL REFUSED TO MAKE ANY STATEMENTS REGARDING THE MONEY OR THE MARIJUANA TRANSACTION. SPECIAL NOTE THAT OFFICER BRADLEY SPECIFICALLY ASKED SUSPECT BENDER IF THE MONEY THAT WAS BEING CASHED WAS HIS AND HE ONLY STATED THAT HE DIDN'T KNOW ANYTHING.

ONCE THE SEARCH OF THE HOUSE WAS COMPLETED THE SUSPECTS CALANCA, LOPEZ AND BENDER WERE TRANSPORTED TO THE CENTRAL JAIL UNTIL SUCH TIME IT WAS DETERMINED THEY WERE NOT GOING TO BE FILED ON THROUGH THE DA'S OFFICE.

THE SUSPECT ROBERTSON WAS RELEASED AT THE SCENE PENDING FURTHER INVESTIGATION BY THE DEA.

THE SUSPECTS GARCIA AND BALZARIS WERE ALSO PLACED IN THE CENTRAL JAIL FACILITY.

REAL EVIDENCE

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ARTICLE 11

DESCRIPTION : PLASTIC BAG CONTAINING NUMEROUS BRICKS OF COMPRESSED MARIJUANA.
APPROX 32.5 LBS.
RECOVERED BY: OFFICER BRADLEY.
LOCATION : FROM THE TRUNK OF THE SUSPECT VEHICLE.
DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
CRIME LAB FOR ANALYSIS.

ARTICLE 12

DESCRIPTION : PLASTIC BAG CONTAINING NUMEROUS BRICKS OF COMPRESSED MARIJUANA.
APPROX 49.0 LBS.
RECOVERED BY: OFFICER BRADLEY.
LOCATION : FROM THE TRUNK OF THE SUSPECT VEHICLE.
DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
CRIME LAB FOR ANALYSIS.

ARTICLE 13

DESCRIPTION : PLASTIC BAG CONTAINING NUMEROUS BRICKS OF COMPRESSED MARIJUANA.
APPROX 54.5 LBS.
RECOVERED BY: OFFICER BRADLEY.
LOCATION : FROM THE TRUNK OF THE SUSPECT VEHICLE.
DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
CRIME LAB FOR ANALYSIS.

ARTICLE 14

DESCRIPTION : PLASTIC BAG CONTAINING NUMEROUS BRICKS OF COMPRESSED MARIJUANA.
APPROX 55 LBS.
RECOVERED BY: OFFICER BRADLEY.
LOCATION : FROM THE TRUNK OF THE SUSPECT VEHICLE.
DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
CRIME LAB FOR ANALYSIS.

ARTICLE 15

DESCRIPTION : PLASTIC BAG CONTAINING ONE BRICK OF COMPRESSED MARIJUANA.
APPROX 4.5 LBS.
RECOVERED BY: OFFICER BRADLEY.
LOCATION : FROM THE TRUNK OF THE SUSPECT VEHICLE.
DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
CRIME LAB FOR ANALYSIS.

ARTICLE 16

DESCRIPTION : PLASTIC BAG CONTAINING ONE BRICK OF COMPRESSED MARIJUANA.
APPROX 40 LBS.
RECOVERED BY: S/A LEE.
LOCATION : FROM THE GARAGE OF SUSPECT GARCIA. 928 WALLING.
DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE

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CRIME LAB FOR ANALYSIS.

ARTICLE 17

DESCRIPTION : PLASTIC BAG CONTAINING LOOSE MARIJUANA. APPROX 9 LBS.
 RECOVERED BY: S/A LEE.
 LOCATION : FROM A SUITCASE, WHICH WAS IN THE SUSPECT GARCIA'S GARAGE.
 928 WALLING.
 DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
 CRIME LAB FOR ANALYSIS.

ARTICLE 18

DESCRIPTION : WRAPPINGS AND LOOSE MARIJUANA.
 RECOVERED BY: S/A LEE.
 LOCATION : FROM INSIDE SUITCASE, WHICH WAS IN THE GARAGE.
 928 WALLING.
 DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
 CRIME LAB FOR ANALYSIS.

ARTICLE 19

DESCRIPTION : PLASTIC BAG CONTAINING MARIJUANA. APPROX 92.1 GRAMS.
 RECOVERED BY: S/A LEE.
 LOCATION : FROM MASTER BEDROOM NEXT TO T.V.
 928 WALLING.
 DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
 CRIME LAB FOR ANALYSIS.

ARTICLE 20

DESCRIPTION : PLASTIC BAG CONTAINING MARIJUANA. APPROX 210.7 GRAMS.
 RECOVERED BY: S/A LEE.
 LOCATION : FROM UNDER BED IN MASTER BEDROOM.
 928 WALLING.
 DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
 CRIME LAB FOR ANALYSIS.

ARTICLE 21

DESCRIPTION : PLASTIC BAG CONTAINING MARIJUANA. APPROX 308.9 GRAMS.
 RECOVERED BY: S/A LEE.
 LOCATION : FROM BEIGHT/SPARE BEDROOM.
 928 WALLING.
 DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE
 CRIME LAB FOR ANALYSIS.

ARTICLE 22

DESCRIPTION : PLASTIC BAG CONTAINING COCAINE. APPROX 146.6 GRAMS.
 RECOVERED BY: S/A LEE.
 LOCATION : FROM SAFE IN DINING ROOM.

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720 MILLING.
DISPOSITION : TURNED OVER TO SGT REYES, WHO SUBMITTED THE SUBSTANCE TO THE CRIME LAB FOR ANALYSIS.

ARTICLE 813

DESCRIPTION : PLASTIC BAG CONTAINING 3 INDIVIDUAL BAGS OF MARIJUANA.
APPROX 72 GRAMS.
RECOVERED BY: S/A OWEN.
LOCATION : FROM SMALL METAL CASE IN SUSPECT ROBERTSON'S BEDROOM.
7350 CAYTON.
DISPOSITION : TURNED OVER TO OFFICER BRADLEY, WHO TURNED IT OVER TO SGT REYES,
WHO SUBMITTED THE SUBSTANCE TO THE CRIME LAB FOR ANALYSIS.

ARTICLE 814

DESCRIPTION : PLASTIC BAG CONTAINING MARIJUANA. APPROX 26.7 GRAMS.
RECOVERED BY: S/A OWEN.
LOCATION : FROM THE KITCHEN DRAWER.
7350 CAYTON.
DISPOSITION : TURNED OVER TO OFFICER BRADLEY, WHO TURNED IT OVER TO SGT REYES,
WHO SUBMITTED THE SUBSTANCE TO THE CRIME LAB FOR ANALYSIS.

ARTICLE 815

DESCRIPTION : ONE ROLL OF 35MM FILM. PHOTOS OF THE NARCOTICS.
TAKEN BY : SGT REYES.
DISPOSITION : SUBMITTED TO THE PHOTO LAB.

SECURITIES 11

DESCRIPTION : \$100,000.00 IN US CURRENCY.
RECOVERED BY: S/A OWEN.
LOCATION : MASTER BEDROOM OF SUSPECT ROBERTSON. 7350 CAYTON.
DISPOSITION : MAINTAINED BY DEA.

SECURITIES 12

DESCRIPTION : \$2,000.00 IN US CURRENCY.
RECOVERED BY: S/A OWEN.
LOCATION : FROM SUSPECT CALAMACA.
DISPOSITION : MAINTAINED BY DEA.

OFFICE INVESTIGATION

OFFICER BRADLEY SPOKE WITH ADA COTTON REGARDING THE CASE AND ADA COTTON ACCEPTED CHARGES ON THE SUSPECTS GARCIA AND GALLERAS. THE OTHER THREE SUSPECTS WERE RELEASED.

THE SUSPECTS WERE CHECKED FOR CRIMINAL HISTORIES AND ALL SUSPECTS, EXCEPT FOR SUSPECT SINGER, HAD PRIOR ARRESTS AND CONVICTIONS.

INCLUDING NO. 020108077 D CURRENT INFORMATION REPORT

PAGE 2.012

OFFICER BRADLEY FILED THE CHARGES UNDER TRANSACTION NUMBER 331198.

SUSPECT DISPOSITION

SUSPECT : SANCIA, PETE
CHARGE : POB (FEL)
CHARGE : FLS (MISDEMEANOR)
CAUSE : 7442707/744271
COURT : 339 DC
BOND : \$1,200,000.00

SUSPECT : GALDERAS, DAVID RENE
CHARGE : POB (FEL)
CAUSE : 744272
COURT : 339 DC
BOND : \$1,200,000.00

SUSPECTS: SENDER, CALAMUCH AND LOPEZ
CHARGE : ALL RELEASED NO CHARGES.

SYSTEM ADVISORY: REPORT ENTERED USING PERSONAL COMPUTER VER-2.09

* ENTRY DEVICE: ZENITH 286 106693 *
* ENTRY FROM DATE-020897 TIME-1012 TO DATE-020897 TIME-1917 *
* TRANSFER DEVICE: HARDWARE/386 FWT ASST 3668220 104104VER. 2.09-1 *
* TRANSFER DATE-021097 TIME-1127 LOAD DATE-021097 TIME-1128 *
* LOCATION OF OFFENSE: POLICE DISTRICT-DISTRICT IN DISTRICT *

- A ARRESTED AND CHARGED IN THIS CASE (INCLUDES JUVENILES ARRESTED AND REFERRED)
- ARRESTED AND CHARGED IN OTHER CASES (NOT IN THIS CASE)
- EXCEPTIONAL CLEARANCE -- MUST HAVE THE FOLLOWING CONDITIONS IN NARRATIVE:
 - IDENTITY OF OFFENDER IS ESTABLISHED, AND ENOUGH INFORMATION EXISTS TO SUPPORT AN ARREST, CHARGE, AND PROSECUTION, AND EXACT LOCATION OF THE OFFENDER IS KNOWN, AND THERE IS SOME REASON BEYOND LAW ENFORCEMENT CONTROL THAT PROMPTS THE ARREST FOR OR CHARGING OF THE OFFENDER (PARK ONLY CASE).
 - LACK OF PROSECUTION BY BY D. A. FOR NON-EVIDENTIARY REASON
 - LACK OF PROSECUTION BY COMPLAINANT - ORAL CONFESSION WITH PHYSICAL EVIDENCE
 - MINOR OFFENSE (JUVENILE ONLY) - DEATH OF DEFENDANT
 - OTHER
- UNFOUNDED - INACTIVE - CLEARED BY INVESTIGATION (INVESTIGATION CASES ONLY)
- CASE OPEN AND ACTIVE INVESTIGATION CONTINUING

INCIDENT NO. 010418077 D CURRENT INFORMATION REPORT

PAGE 21013

SUPPLEMENT(S)

NO-0001

OFFENSE- PDSS HAKIDOFFER CRAL/HERKIDU, HBSH

ARREST LOCATION INFORMATION

Number- 1400 Name-FRANKLIN Type- SUFFIX-

ApL NO- Name-ROBIN Type- SUFFIX-

Date of offense-02/04/77 Date of supplement-02/13/77

Compl(s) Last-STATE OF TEXAS First- middle-

Recovered stolen vehicles information

Stored- by- PHN- (000) 000-0000

Officer-SNOWMAN Emp#-102193 Shift- DIV/Station-CRIME LAB

SUPPLEMENT NARRATIVE

SUSPECT(S): TIMOTHY K. ROBERTSON

REF 1177-1488

CRIMINALIST GENDRON

EVIDENCE SUBMITTED

___ CONTAINER(S) DRUNK SUBSTANCE	___ CIGARETTE(S)	___ TABLET(S)
___ CONTAINER(S) POWDER	___ CIGARETTE STUB(S)	___ CAPSULE(S)
___ CONTAINER(S) PLANT SUBSTANCE	___ CIGAR(S)	___ PIPE(S)
___ CONTAINER(S) LIQUID	___ CIGAR STUB(S)	___ STRINGS(S)
___ OTHERS		

RESULTS OF ANALYSIS

QUANTITY - APPROXIMATELY 2.7 OUNCES

Supplement entered by : 102193

Report reviewed by-DF

Employee number-100700

Date cleared- 02/04/77

 ABOVE REDACTION WAS THE END OF THE T.C.I.C./N.C.I.C PRINTOUT

=N 00406242 **NQY3(LNQY)** PG 1
 LINE NAME PTY RAC SEX DOB JAIL W/W CIN SPN & CLS
 BALDERAS, DAVID RENE D W M 070464 H H 00406242994
 BALDERAS, DAVID RENE D W M 070464 H H 00406242995
 BALDERAS, DAVID RENE D W M 070464 H H 00406242996
 BALDERAS, DAVID RENE D W M 070464 H H 00406242997
 BALDERAS, DAVID RENE D M M 070464 H H 00406242998

TO SEE MORE ALIAS NAMES USE THE ALIAS NAME INQUIRY
 LAST ADDRESS: 6003 ANGEL FALLS HOUSTON TX77041 PHONE: 713-937-7088
 HGT: 505 WGT: 180 EYES: BRO HAIR: BLK SKIN: LBR BLD: MED SMT:

***** CASE INFORMATION *****
 LN CDI CASE NUMBER CRT CON FIL-DT OFFENSE NXT-ST S CST INS DISPOSITION
 01 002 963278201010 011 DEF 072896 ASSAULT 082396 D D MIN DISM-082396
 02 002 963278101010 011 DEF 072896 ASSAULT 082396 D D MIN DISM-082396
 03 001 JC5100302672 J51 DEF 071995 TRAFFIC N A WAR
 04 001 JC1100622181 011 DEF 062089 TRAFFIC M I WAR
 05 003 054158001010 184 DEF 091289 THEFT 020190 D C FID DISP-020190
 06 002 892880101010 002 DEF 080989 OTHER MISC 101889 D C MIN DISP-101889
 07 002 883192401010 007 DEF 090888 OTHER MISC 112288 D C MIN DISP-112288
 08 003 051021801010 228 DEF 090888 OTHER DRUG 102488 D D FID DISM-102488
 TO SEE NEXT PAGE PRESS ENTER. CLEAR TO TERMINATE.
 PF6=LBKI PF9=LPER PF11=LAPI ** LINE NO => ENTER=LQY6 PF1=LBFD PF2=AP01 PF4=LDIS
 PF5=LCDP PF7=LQY8 PF8=LQY9 PF10=LATT PF5-99=PTSM (LN + X PF5=CSR30 OR PF8=LDSP)
 =N 00406242 **NQY3(LNQY)** PG 2

-END OF DISPLAY- HIT CLEAR TO TERMINATE.
PF6=LBKI PF9=LPER PF11=LAPI ** LINE NO => ENTER=LQY6 PF1=LBFD PF2=AP01 PF4=LDIS
PF5=LCDP PF7=LQY8 PF8=LQY9 PF10=LATT.PF5-99=PTSM (LN + X PF5=CSR30 OR PF8=LDSP)

RUN DATE - 02/05/97 JUSTICE INFORMATION MANAGEMENT SYSTEM 001
 TIME - 12.46.19 HARRIS COUNTY CRIMINAL RECORD PTSP

SPN: 00406242

FILING DATE:072896 DEFENDANT NAME:BALDERAS, DAVID RENE
 OFFENSE:ASSAULT-BODILY INJURY CRT/CASE: 011/963278201010

DISPOSITION	DAYS	MONS	YRS	IND	FINE	DISP DATE
DISMISSED						082396
DISMISSED						082396

FILING DATE:072896 DEFENDANT NAME:BALDERAS, DAVID RENE
 OFFENSE:ASSAULT-BODILY INJURY CRT/CASE: 011/963278101010

DISPOSITION	DAYS	MONS	YRS	IND	FINE	DISP DATE
DISMISSED						082396
DISMISSED						082396

FILING DATE:091289 DEFENDANT NAME:BALDERAS, DAVID RENE
 OFFENSE:THEFT \$200--\$750 CRT/CASE: 184/054158001010
 HOW PLED: LESSER OFF. GUILTY PLEA - NO JURY

DISPOSITION	DAYS	MONS	YRS	IND	FINE	DISP DATE
COMMITTED TO LOCAL JAIL	0003			HCJ	0000500	020190

FILING DATE:080989 DEFENDANT NAME:BALDERAS, DAVID RENE
 OFFENSE:DRIVING WHILE LICENSE SUSP. CRT/CASE: 002/892880101010

DISPOSITION	DAYS	MONS	YRS	IND	FINE	DISP DATE
CONVICTION-PLEA OF GUILTY	0003			HCJ	0000200	101889

FILING DATE:090888 DEFENDANT NAME:BALDERAS, DAVID RENE
 OFFENSE:UNLAW CARRY WPN CRT/CASE: 007/883192401010

DISPOSITION	DAYS	MONS	YRS	IND	FINE	DISP DATE
CONVICTION-PLEA OF GUILTY	0004			HCJ	0000100	112288

FILING DATE:090888 DEFENDANT NAME:BALDERAS, DAVID RENE
 OFFENSE:POSS CDC 28-LT200G-NON-CRACK CRT/CASE: 228/051021801010

2014 09 18 10:17

DATE TIME IRS

AND

FINE

DISP DATE

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102488

RUN DATE - 02/05/97 JUSTICE INFORMATION MANAGEMENT SYSTEM 002
TIME - 12:48:19 HARRIS COUNTY CRIMINAL RECORD PTSP

SPN: 00406242

FILING DATE: 091981 DEFENDANT NAME: BALDERAS, DAVID RENE
OFFENSE: POSS MARIJ 0-2 OZ CRT/CASE: 006/062893501010

DISPOSITION	DAYS MONS YRS	IND	FINE	DISP DATE
CONVICTION-PLEA GUIL/NOLO CONT	0003	HCJ	0000150	102681

***** END OF DISPLAY *****

Exhibit B

Letter from HPD Sgts. Todd Miller and Jim Ladd to Chuck Rosenthal, District
Attorney's Office (dated July 9, 1996)

FAX TRANSMISSION SHEET

**HOUSTON POLICE DEPARTMENT
HOMICIDE DIVISION
FAX NUMBER:713-731-5856
8300 MYKAWA
HOUSTON, TEXAS 77048
PHONE:713-731-5844**

DATE: July 9, 1996

FROM: TODD W. MILLER, DETECTIVE POLICE OFFICER

TO: Chuck Rosenthal, Felony Division B, 5th floor

COMPANY: District Attorney's Office

SUBJECT: Reinaldo, and Albert Dennes

YOU SHOULD RECEIVE 3 PAGE(S) INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL OFFICER MILLER AT 713-731-5844.

COMMENTS:

CITY OF HOUSTON

INTER OFFICE CORRESPONDENCE

TO: Chuck Rosenthal
District Attorney's Office

FROM: Todd Miller
Jim Ladd

DATE: July 9, 1996

SUBJECT: **The Diamond Caper**

Chuck,

We interviewed Luis Hector Fugon, and Francisco Elvira, the two crooks hired by Ray and Albert to rob the jeweler at his home. Fugon and Elvira both denied everything, especially regarding Ray and Albert. Fugon, however, said in his written confession that he met with the "Cubans" two times and admitted the whole deal was set up by "The Cubans" (Ray and Albert). Fugon also admits knowing David Balderas, and talks about his part in the whole deal. I am sending a copy of Fugon's statement along for you to look over. I didn't have Fugon's statement when I interviewed him, therefore unaware of his admissions concerning Ray and Albert. Fugon's current denial concerning Ray and Albert leads me to believe that he is holding out because he is afraid of them. After talking things over, we feel that if we can meet with Fugon, his attorney, and you, Fugon will be cooperative, (Similar to meeting we all had with Estrella). Fugon has been offered 50 years aggravated out of the 232nd D.C., and is not very thrilled with the offer. Fugon's attorney is Robert Alexander. Think about this and let me know whether you feel this is a viable option.

I have also been in touch with David Balderas and he is still cooperative. Balderas' story differs from Fugon's slightly, but can be worked out I'm sure. Balderas was also able to tell us that he had personal knowledge of the shooting Albert was in at his jewelry store several years ago. Albert told Balderas that he, Albert, had been buying stolen Rolex watches from the guy for several months and knew him well. On the day of the shooting, Albert had just but some stolen merchandise from the suspect. Albert said the suspect then wanted more money and Albert said the guy tried to rip him off. Albert and his wife at the time, Juanita, ended up shooting the suspect, killing him. Albert and Juanita described the shooting at the time as a random robbery gone bad and claimed they did not know the suspect. Mike Landry in Major Offenders also has an informant which corroborates Balderas' version of events. We are planning to confront Albert's ex-wife, Juanita, with this new information and attempt to get some semblance of the truth from her.

Balderas also told us he knows some people that deal in semi-precious stones, and run an automobile body shop, (some combination). Anyway, Francisco also knows these people and did some prior business with them, always semi-precious stuff. Two or three days before we arrested Francisco, he was trying to sell a large amount of loose diamonds to these people, who thought it was rather suspicious since Francisco had never had that much stuff before. We are planning to interview the people at the body shop. This is probably how Francisco was able to bond out of jail so quick.

The burglary, with several million dollars worth of middle eastern and African art stolen, is positively locked down on Ray and Albert. The elderly complainants are respectable and willing to testify against Ray. They remember Ray coming over to their house for dinner

Page 2

Chuck Rosenthal

several times, and questioning the security measures, as well as examining all the art. The couple even mentioned a comment Ray made to the husband after the burglary had taken place, "I'll bet whoever stole all of your stuff was so worked up, he went home and fucked the shit out of his wife". The couple positively identified the artifacts recovered from Ray's safe as items stolen from their house during the burglary.

If we can get something worked out with Fugon concerning the home invasion, or just go with Balderas' statement, and taking into account the Burglary, and the shooting Albert lied about, maybe we can get "death" on Ray and or Albert. Let me know what you think, especially regarding a meeting with Fugon, and his attorney.

A handwritten signature in black ink, appearing to read "Todd", written in a cursive, flowing style.

Todd Miller

Exhibit C

United States v. David Balderas Sentencing Hearing, Cause No. 7:98-CR-00154-2,
United States District Court for the Southern District of Texas, Brownsville Division
(July 29, 1999)

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 MCALLEN DIVISION

4 UNITED STATES OF AMERICA § CASE NO. 7:98-CR-00154-2
5 VERSUS § MCALLEN, TEXAS
6 DAVID RENE BALDERAS § THURSDAY,
§ JULY 29, 1999
§ 11:08 A.M. TO 11:29 A.M.

7
8 SENTENCING
(AMENDED)

9 BEFORE THE HONORABLE RICARDO HINOJOSA
10 UNITED STATES DISTRICT JUDGE

11 APPEARANCES: SEE NEXT PAGE
12 COURT RECORDER: ANTONIO TIJERINA
13 USPO: VELMA BARERRA

14
15 THIS TRANSCRIPT HAS BEEN FURNISHED AT PUBLIC EXPENSE
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APPEARANCES:

FOR THE PLAINTIFF:	LUIS MARTINEZ, ESQ. AUSA 1701 W. BUS. HWY 83, STE. 600 MCALLEN, TX 78501
FOR THE DEFENDANT:	JONATHAN MUNIER, ESQ. 3700 N. MAIN HOUSTON, TX 77009

1 HOUSTON, TEXAS; THURSDAY, JULY 29, 1999; 11:08 A.M.

2 THE COURT: Next is Criminal Number M-98-154-02,
3 United States of America versus David Rene Balderas.

4 MR. MARTINEZ: United States is present and ready,
5 Your Honor.

6 MR. MUNIER: Jonathan Munier for the Defendant.
7 Mr. Balderas is present also, Judge.

8 THE COURT: Mr. Balderas, have you had an
9 opportunity to review the Presentence Investigation Report
10 that was prepared in your case, sir?

11 DEFENDANT BALDERAS: Yes, sir.

12 THE COURT: Have you discussed it with your
13 attorney, sir?

14 DEFENDANT BALDERAS: Yes, sir.

15 THE COURT: Is there anything that you want to
16 tell the Court about this Report or anything else before I
17 make a decision as to what kind of sentence to impose in
18 your case?

19 DEFENDANT BALDERAS: No, sir.

20 THE COURT: There is nothing you want to say here
21 this afternoon -- this morning?

22 DEFENDANT BALDERAS: Well --

23 THE COURT: It doesn't have to be about the
24 Report, just anything that you think I should know here
25 before I make a decision.

1 MR. MUNIER: Well, the case is -- the question is
2 -- the question sounds as if it is in the Report and I have
3 some objections to the Report that I wish to address with
4 the Court.

5 THE COURT: I will get to you.

6 MR. MUNIER: Okay.

7 THE COURT: But I'm asking him. It doesn't have
8 to be about the Report, just anything that you think I
9 should know here before I make a decision in your case. Is
10 there anything that you want to say here?

11 DEFENDANT BALDERAS: Nothing I'm going to say is
12 probably going to make -- because of what I've done, you
13 know? I'm not going to sit here and tell you that -- you
14 know, why I did it, or you know, I feel bad about it. You
15 know, I mean, I know it was wrong. I know what I did was
16 wrong, what I've been doing was wrong.

17 Yeah, but there's nothing I can sit here and tell
18 the Court or yourself so to make me any different than what
19 I've been hearing today about.

20 THE COURT: That would make it any different than
21 what?

22 DEFENDANT BALDERAS: That what I've been hearing
23 today about, you know, drugs and society and everything.

24 THE COURT: Okay. And you heard it all?

25 DEFENDANT BALDERAS: Yes, sir.

1 THE COURT: I don't have to repeat it?

2 DEFENDANT BALDERAS: No, sir, but I understand.

3 THE COURT: Okay. Is there anything -- you live
4 in Houston?

5 DEFENDANT BALDERAS: Yes, sir.

6 THE COURT: Is there anything else that you want
7 to say here?

8 DEFENDANT BALDERAS: No, sir.

9 THE COURT: Sir, you've obviously reviewed this
10 Report with him, Mr. Munier?

11 MR. MUNIER: Yes, I have, Judge.

12 THE COURT: Is there anything you'd like to say on
13 his behalf and which, if any, objections do you need a
14 ruling from the Court on here?

15 MR. MUNIER: Judge, I've made an objection
16 specifically to the finding of the weapons in reference to
17 this particular Defendant and I think they're specific. And
18 I wrote an objection we had prepared. I submitted it to the
19 Court an objection that's written and although it's kind of
20 tongue-in-cheek, I think I've used some words that I
21 probably would regret after I read it four or five months
22 later in terms of being a minion and a snitch or something
23 like that, which I'll be glad to explain.

24 But the simple fact of the matter is my fellow,
25 who has been a cooperating informant for years with the

1 Houston Police Department -- as a matter of fact, ten days
2 after I left the DA's Office in Houston in 1989, I was
3 called by a couple of narcotics officers that I've known for
4 years and asked me to shepherd him through the system when
5 his problems came up because basically he had been
6 cooperating with him on a long-term basis.

7 And this particular circumstance, he was set up by
8 a Federal DEA informant, who was told to come down here and
9 meet with these other two fellows and he did exactly what he
10 was told and then he was arrested.

11 He was kind of halfway between his Houston
12 handlers and these fellows down here. And of course, he was
13 just far enough off -- "off the reservation," as they would
14 say, that we ended up -- after my analysis of the situation
15 where we entered our guilty plea and we've come before the
16 Court.

17 And when you look at his criminal record, a lot of
18 those things, I'm sure, are before you. Now obviously
19 there's stuff like the DWLS and stuff like that are not a
20 major deal, but his other transactions, you can -- if you
21 read between the lines, you can kind of see where they're
22 coming from.

23 Basically he has cooperated on a long-term basis
24 on many investigations. He's testified for the State in
25 capital murders. I have not put these in the form of a

1 written motion, but now I know I could do it under seal and
2 I'm not giving this information directly to the PSI Officers
3 because basically I didn't want him to go before the case
4 and I really wanted to tell the Court first where I am in
5 reference to this particular Defendant and what he has
6 actually done.

7 But in reference to my specific objections, the
8 weapons I do not believe were appropriate. He flew down
9 here within an hour of the arrest.

10 THE COURT: A man with his experience certainly it
11 would have been reasonably foreseeable to him that they are
12 weapons involving a drug transaction. He's had a carrying a
13 weapon conviction here --

14 MR. MUNIER: Oh, I'm not --

15 THE COURT: -- it certainly was reasonably
16 foreseeable to him and if that's the objection, the Court's
17 going to overrule it.

18 MR. MUNIER: All right.

19 THE COURT: What else?

20 MR. MUNIER: Also, Judge, I think I asked for a
21 role reduction in terms of his particular status in this
22 particular transaction.

23 THE COURT: Okay. I have reviewed that objection
24 and I've reviewed this Presentence Investigation Report and
25 the facts here, and the Court is going to overrule that

1 objection. I don't find him a minor or minimal participant
2 here.

3 MR. MUNIER: All right. Well, Judge, then
4 basically what we're left with is a discussion of the
5 Government has filed a 5K motion in reference to this
6 particular Defendant and because of the cooperation that
7 still is taking place in Houston, I kind of wanted to tell
8 the Court some of the stuff that's taken place in reference
9 to a particular Defendant, that do not appear in the Report
10 that I have just -- I have personally participated in with
11 him along the years and to let the Court know of that kind
12 of cooperation.

13 This is his first major --

14 THE COURT: And I have to be real honest with you.
15 I don't have much sympathy for people that are providing
16 cooperation and assistance at the same time that they're
17 violating the law. And you don't appear here regularly, but
18 I don't --

19 MR. MUNIER: Well, I don't --

20 THE COURT: -- I mean, I don't think that that
21 benefits anybody.

22 MR. MUNIER: Well, --

23 THE COURT: The people that are out testifying
24 against them, how can we trust them? I mean, how can the
25 system really reward somebody without testifying against

1 somebody for violating the law? If you're the fact-finder,
2 you'll -- how can I believe this guy?

3 MR. MUNIER: Well, I -- well, there's --

4 THE COURT: And really, I mean, it --

5 MR. MUNIER: Well --

6 THE COURT: And I know the Government uses people
7 like that and you know, pays them good money. They don't
8 pay the taxes on it. Sometimes they get property, but
9 they're out violating the law while at the same time
10 testifying and taking money from the Government. As a
11 Judge, you can't be very sympathetic. Juries definitely are
12 not.

13 MR. MUNIER: Well I'm not saying that -- Judge, I
14 understand fully the philosophical quagmire of it all.

15 THE COURT: And then it's -- to give him credit
16 for something that they've done when they're out taking all
17 this money from the Government to testify against somebody
18 and make a case on somebody, but they're out doing the same
19 thing, well --

20 MR. MUNIER: Well, I --

21 THE COURT: -- it's like with kids at home, I
22 mean. I don't think parents reward that situation very
23 much.

24 MR. MUNIER: Well, I don't -- you know, I will not
25 disagree with you philosophically whatsoever. It is an

1 insidious vicious circle.

2 THE COURT: Well, it's not philosophical. It's
3 fairness, I mean.

4 MR. MUNIER: Well, no, I agree. I don't
5 necessarily disagree. I hated it when I was a prosecutor.
6 I've always hated it to the Fifth Circuit. The simple fact
7 of the matter has taken place.

8 THE COURT: I don't have a problem -- I don't have
9 a problem with using informants. I don't have a problem
10 with paying the informants. I do have a problem with people
11 with who are taking this consideration and violating the law
12 at the same time. That is really -- that -- that is wrong.

13 MR. MUNIER: I understand. I fully understand,
14 Judge. I understand -- I mean, well what I want to inform
15 the Court is, he has been called upon many times when
16 there's been no consideration to testify about various
17 things, including capital murder trials where he had no
18 involvement, other than knowing what the --

19 THE COURT: What did he testify at the capital
20 murder trial?

21 MR. MUNIER: He testified at a capital murder
22 trial to basically a killing the witness scheme that the
23 Defendant had perpetrated in the 263rd. After the Court --

24 THE COURT: That he had witnessed or what?

25 MR. MUNIER: No. Well, he had heard the guy

1 talking about it and informed the authorities right away.

2 THE COURT: While he was in custody?

3 MR. MUNIER: No, no, no, no, no. When the
4 Co-Defendant basically works with the Defendant, a guy named
5 Dennes (phonetic) -- or D-E-N-N-E-S, had murdered a jeweler
6 in Houston and him and his brother had stolen the jeweler's
7 property. The family came to David or made it known to
8 David Balderas that they wanted to have some of these
9 witnesses that they botched and left alive killed, and he
10 informed the authorities right away, without any
11 consideration or anything and immediately testified.

12 THE COURT: Well he's had -- he's had two cases
13 dismissed that -- those must have been consideration for
14 something?

15 MR. MUNIER: Well, yes, sir, they were
16 consideration for something.

17 THE COURT: Right. And probably for testifying in
18 the capital murder case.

19 MR. MUNIER: No, no, no, no, no. No, no, no, no.

20 THE COURT: It's something else?

21 MR. MUNIER: Oh, it's something else, Judge, yes,
22 something else.

23 THE COURT: He just had 217-pound marijuana case
24 where they seized \$100,000 and a small quantity of cocaine
25 dismissed. There's no explanation as to why that was done.

1 He's had a 4-kilogram cocaine case dismissed with no
2 explanation as to what that was about.

3 So he's gotten some good consideration here.

4 MR. MUNIER: Well, I'm not saying that he hasn't.
5 I'm just saying that it goes beyond the scope of what's in
6 the PSR Report and I want to make you aware of it.

7 THE COURT: Right, and it's not here and if
8 there's even more, I mean, that's even more eye-opening.

9 Okay. Is there something else?

10 MR. MUNIER: Oh, no, no, Judge. I'm really
11 responding to the Court's questions.

12 THE COURT: Well, I thought you were responding to
13 yourself.

14 MR. MUNIER: No. No, I understand, Judge, but
15 frankly, Judge, he basically still maintains the posture of
16 cooperation with the law enforcement. Whether he's paid or
17 not, that's not the issue. He's been passing on information
18 for years and to his own detriment. He's actually had a
19 family member murdered early in the game, which I didn't
20 also produce, but I didn't really want to do that, so.

21 THE COURT: Well, the wife --

22 MR. MUNIER: Yeah.

23 THE COURT: But there's no indication here that
24 this was in relationship to his cooperation and assistance.

25 MR. MUNIER: Well, it was never quite proved, but

1 no other reason for his wife being murdered. You know, I
2 mean -- all I'm saying is this fellow is a creature of the
3 system.

4 THE COURT: This is way back in 1988.

5 MR. MUNIER: That's true, Judge. That's what I'm
6 -- I came across him in 1989 when I left the DA's Office and
7 he even cooperated before I left the DA's Office in Harris
8 County.

9 THE COURT: Okay. Well, he's been cooperating
10 during all this period of time, but then there's been a
11 continuation of arrests and dismissals on him, I guess.

12 MR. MUNIER: Well sometimes he's actually arrested
13 as part of the operation, Judge.

14 THE COURT: It doesn't say that.

15 MR. MUNIER: I know it doesn't say that, and I
16 doubt -- you know, this is a dirty, insidious game and
17 that's what the problem is in some respects. You're right.
18 You know, your inherent distrust of it is to no avail.

19 THE COURT: There's no inherent distrust of this.
20 What the inherent distrust is if somebody acting like
21 they're cooperating and providing assistance and being an
22 informant when they're out violating the law. There's --
23 that makes a very serious distrust of that type of behavior
24 and that's what we have here.

25 MR. MUNIER: Well you know, and it's the reason --

1 THE COURT: And believe me, he becomes worthless
2 to the Government because you put this man on the stand the
3 next time he testifies, what do you think the jury is going
4 to think about this?

5 MR. MUNIER: Well usually the argument of the
6 Prosecutor is well, you can't -- you know, fleas, as long --
7 fleas on the dog. That's usually what the argument is.

8 THE COURT: No, but in this case --

9 MR. MUNIER: They always adopt him somehow and get
10 their convictions.

11 THE COURT: -- but in this case we have the added
12 problem that while he's been adopted, he's running amok
13 here.

14 MR. MUNIER: Well --

15 THE COURT: A lot of times it's stuff that's in
16 the past and they're testifying about stuff they had done in
17 the past, but they're no longer doing that. They're just
18 being paid now and they're providing information and have
19 rehabilitated themselves to some extent in some situations,
20 they've actually rehabilitated themselves.

21 But in his case, while he's being paid and
22 providing the information, he's also violating the law.
23 That's not the usual situation we get as witnesses from
24 these people.

25 MR. MUNIER: Well Judge, as I was trying to

1 explain, in this particular situation we had no clear orders
2 on him and we left the reservation and that's why I pled --
3 that's why we pled guilty.

4 THE COURT: There were no orders. You didn't
5 leave the reservation. That was his reservation. That's
6 what he was involved in.

7 MR. MUNIER: Well, I --

8 THE COURT: I mean, he was involved in drug
9 transactions. He wasn't doing his -- maybe I missed
10 something, but is the claim here that he was doing
11 undercover work or informant work here?

12 MR. MUNIER: They were -- they did not have clear
13 signals with the HPD narcotics police officer that's been
14 handling Mr. Bradley. And I've discussed that with
15 Mr. Bradley, as well as Mr. Martinez.

16 THE COURT: Mr. Balderas, you mean?

17 MR. MUNIER: Yes, yes.

18 MR. MARTINEZ: Your Honor, I --

19 THE COURT: Is there a Mr. Bradley someplace?

20 MR. MUNIER: Well that's the HPD officer that's
21 been handling him.

22 MR. MARTINEZ: HPD Detective Bradley, I spoke to
23 him. He said absolutely in no way did this Defendant have
24 permission to come down here to do a drug deal -- to get
25 involved in a drug deal. He wasn't working for HPD. And

1 then Officer Bradley said he would come down and testify to
2 that effect. However, Officer Bradley did tell me that
3 Mr. Balderas in the past had been a very reliable informant
4 and that subsequent to his arrest that he had assisted the
5 HPD in seizure of at least 2 kilos of cocaine, three to four
6 individuals and over \$15,000 in cash and that's the basis
7 for the Government's 42-month recommendation on a 5K1, Your
8 Honor.

9 But absolutely in this case, Officer Bradley told
10 me there was -- there's no way this man could have thought
11 that he was going to be working as an undercover and that's
12 why he pled guilty, I believe.

13 THE COURT: Well let me make some findings.

14 MR. MARTINEZ: Yes, Your Honor.

15 THE COURT: And then I'll come back to you-all.

16 The Base Offense level, based on what the
17 Defendant had pled guilty to here is 26. Pursuant to
18 Guideline Section 2D1.1(b)(1), the Court is going to find
19 that there were weapons used in -- possessed in relationship
20 to this drug trafficking crime that was reasonably
21 foreseeable to this Defendant. So there would be a plus-2
22 here.

23 He has an adjusted Offense Level of 28. There
24 will be a minus 3 for acceptance of responsibility. His
25 total Offense Level is 25. His Criminal History Category is

1 2. The Court will adopt paragraphs 18 through 37 of this
2 Presentence Investigation Report. His guideline range,
3 therefore, becomes 63 to 78 months.

4 There is a Motion to Depart here. Do you want to
5 address yourself to this?

6 MR. MARTINEZ: Your Honor, the Motion to Depart
7 for Mr. Balderas is based solely on two seizures, as I
8 understand it from Officer Bradley.

9 THE COURT: Can you explain to me when these
10 seizures occurred?

11 MR. MARTINEZ: Your Honor, the exact dates, I'm
12 not sure. I know that they were after his arrest and after
13 he was out on bond. They were two separate kilos of
14 cocaine, if I'm not mistaken, and there was also some money
15 seized, 15,830-some-odd-dollars. Two individuals were
16 arrested in the first seizure and one individual in the
17 second seizure.

18 THE COURT: And this is just information that
19 happened to come to him -- or how did that happen?

20 MR. MARTINEZ: Your Honor, I fully doubt it was --
21 I'm actually not exactly clear. I know that's just from
22 Officer Bradley telling me that.

23 MR. MUNIER: He received a call.

24 MR. MARTINEZ: Yes, Your Honor.

25 MR. MUNIER: He introduced the undercovers and

1 they set up the delivery that came on wheels basically.

2 THE COURT: Somebody just called him out of the
3 clear blue?

4 MR. MUNIER: Judge, he's been doing this for a
5 long time.

6 THE COURT: Right. Okay. Anything else? And
7 your recommendation was?

8 MR. MARTINEZ: 42 months, Your Honor.

9 THE COURT: How did you reach the recommendation
10 of 42 months?

11 MR. MARTINEZ: Well that's -- I felt that that
12 would be fair since he's the one that was holding out for
13 trial and he's the one that --

14 MR. MUNIER: Whoa, that I don't --

15 MR. MARTINEZ: I was under the assumption that we
16 were going to have to try him and that's how, you know, --

17 THE COURT: If you mean compared to Mr. Hernandez,
18 Mr. Hernandez has no prior record.

19 MR. MARTINEZ: Right.

20 THE COURT: Except one reckless driving charge and
21 he was acquitted by the jury and I mean, so he has no prior
22 record.

23 MR. MARTINEZ: I thought 42 months was --

24 MR. MUNIER: Correct.

25 THE COURT: He hasn't been serving as an informant

1 while violating the law here.

2 MR. MARTINEZ: And that's what I was going to
3 point out to the Court. I felt that it was pretty onerous
4 that he's been an informant, then he comes and commences a
5 drug deal and when he's left here, we give him a chance that
6 the Court and the police officers gave him a chance to try
7 to knock down that sentence to 42 months and he's got, you
8 know, a long-standing record. I'm not sure this was the
9 first time he's ever flip-flopped like this, work both ends
10 of the street, so to speak.

11 MR. MUNIER: I know that.

12 MR. MARTINEZ: So that was why we're -- that was
13 why our Agent --

14 THE COURT: Who are you talking to?

15 MR. MUNIER: I was talking to him. He said that's
16 not what I was doing. And I told him, I know that, I know
17 that.

18 THE COURT: What were you doing?

19 DEFENDANT BALDERAS: Well I was coming down here
20 to try to do this little business and get up there into
21 Houston.

22 MR. MUNIER: If he gets up to Houston, he makes
23 the money. Down here there's nothing for him. If he gets
24 the transaction to go to Houston --

25 THE COURT: Well that's not what he pled to.

1 MR. MUNIER: Well, it still doesn't excuse the
2 conduct, Judge, under the standard of law. I mean, that's
3 the problem. I mean, we're caught between -- we're caught
4 between two Indian Chiefs.

5 THE COURT: Those being who?

6 MR. MUNIER: The authorities down here and the
7 authorities up there. The authorities up there are --

8 THE COURT: The authorities up there, I mean, what
9 they're told with regards to information -- and I am sure
10 that that's his arrangement with the Houston Police
11 Department. You don't go do this on your own without
12 telling us exactly what you're doing.

13 So this to say that I was on my way and I had to
14 get this to Houston, it's not true because in order to have
15 gotten any credit for it, he needs to have -- he needed to
16 have visited with him from the very start about this whole
17 transaction.

18 So you're a former DA, I've been judge for
19 16 years.

20 MR. MUNIER: Sure.

21 THE COURT: We've got the Prosecutor here and
22 we've got a well-known informant here who's been in the
23 business for a while here, so he knows that he needed to
24 have told him from the very start, not that he comes down
25 here and says, "Let me get this stuff up there and once I'm

1 in the Houston Police Department jurisdiction, I'll call
2 them up and say, 'Hey, guys.'"

3 MR. MUNIER: Except, Judge, when we came down
4 here, we didn't even know the dope was in the house or where
5 it was. We got off the plane, came to this house and the
6 transaction started within 30 minutes. That's the point --
7 that's the whole point. And this is like --

8 THE COURT: Well you weren't down here.

9 MR. MUNIER: Oh, no, absolutely not. I don't mean
10 "we" in the collective sense, absolutely not.

11 MR. MARTINEZ: Your Honor, just for the Record,
12 undercover Padilla has told me that this man was giving him
13 directions of where the dope was going to go to, so I think
14 he knew a little bit more than 30 minutes in advance.

15 THE COURT: Okay. And your recommendation is
16 still 42 months?

17 MR. MARTINEZ: 42, yes, Your Honor.

18 THE COURT: Explain to me again why you would be
19 that kind here?

20 MR. MARTINEZ: I would be that kind, Your Honor,
21 because he assisted the officer who I spoke to in the
22 seizure of 2 kilos --

23 THE COURT: Right. After he's been caught here.

24 MR. MARTINEZ: Yes, Your Honor.

25 THE COURT: He's decided -- I'm going to see who

1 else I -- how do you trust that information?

2 MR. MARTINEZ: Your Honor, it's been a long --
3 this case has been -- it's an old case, but I remember
4 speaking to the officer and he clearly said that he got the
5 call and it was set up. It was legitimate and these people
6 were, indeed, involved in cocaine transactions and that it
7 was -- and I said, how good was it? He was straight up. He
8 didn't entice anybody. He didn't -- these people were long-
9 known cocaine dealers.

10 THE COURT: Okay. Anything else, Mr. Munier?

11 MR. MUNIER: No, Judge.

12 THE COURT: Mr. Balderas, anything else?

13 DEFENDANT BALDERAS: No, sir.

14 THE COURT: Okay. The Court is ready to proceed.
15 The Court is going to go ahead and sentence him to the
16 custody of the Bureau of Prisons for 52 months. I'm going
17 to grant the Motion to Depart to the extent that I've stated
18 here.

19 There will be a four-year supervised-release term
20 in this case to commence upon release from confinement under
21 the conditions which have been adopted as standard in the
22 Southern District of Texas to include all statutory
23 requirements. It's a three-year supervised-release term.

24 There will be a \$100 special assessment against
25 him as required by law. The Court will not impose a fine

1 nor the cost of incarceration or supervision on him in that
2 the Court would find that he would be financially unable if
3 the Court were to give him installments to make those
4 payments. And it would be a hardship on this Defendant.

5 The reasons that I have chosen this sentence,
6 which is not within the Guidelines, is strictly at the
7 Government's request with regards to some consideration for
8 some case that may have been worked on by this Defendant
9 after he was arrested. The Court feels that it has been
10 more than generous with regards to any consideration here,
11 based on his prior record here and his involvement in this
12 particular offense.

13 And sir, I want you to understand that if you
14 would like to appeal this sentence, you have within ten days
15 from the entry of Judgment in this case within which to do
16 that, sir. And the way that you do that, sir, is by filing
17 a written Notice of Appeal with the Clerk of the Court
18 within that time period. If you're unable to afford the
19 cost of an appeal within that time period, you will also
20 have to file a Motion to Proceed *In Forma Pauperis* within
21 which you indicate to the Court that you're unable to afford
22 the cost of an appeal.

23 If you-all don't have anything else, you-all can
24 be excused. Thank you very much.

25 MR. MARTINEZ: Judge, we move dismissal of the

1 remaining counts as to this Defendant.

2 THE COURT: That's granted.

3 MR. MUNIER: I would request a voluntary
4 surrender, Judge. He's still cooperating -- not cooperating
5 in the sense of making any kinds of transactions, but they
6 are still doing some intelligence.

7 THE COURT: Mr. Martinez?

8 MR. MARTINEZ: Your Honor, I will go ahead and
9 change to ask the Court to let him remain out on bond. I
10 know it's -- it's two months, but they --

11 THE COURT: Is he helping somebody? How can he be
12 helping?

13 MR. MUNIER: Just, just --

14 THE COURT: How can you use this man as a witness?

15 MR. MARTINEZ: He's not going to be a witness,
16 Your Honor, but there was an undercover and I spoke to
17 Lieutenant Bradley or Detective Bradley about that. I said
18 you can't use him. He's burned. He said, yeah, we have
19 plenty of surveillance. We recused just the one that got it
20 going. We have plenty of surveillance.

21 THE COURT: Okay. He can voluntarily surrender to
22 the US Marshals in Houston on August the 31st by
23 2:00 o'clock at 515 Rusk, at the US Courthouse there, so
24 they can inform him what institution has been designated.
25 Make sure that you're at the institution on the day that

1 you're supposed to be. If not, your bond is forfeited and
2 an arrest warrant is issued against you and the Government
3 files another felony charge against you for failure to
4 appear and you don't want to have that kind of problem.

5 MR. MUNIER: Thank you, Judge.

6 Houston, you said?

7 THE COURT: That's where he has to go to the
8 Marshal's Office there at the Federal Courthouse Building,
9 so that they can inform him what institution has been
10 designated.

11 MR. MUNIER: Thank you, Judge.

12 THE COURT: I will recommend that he be placed in
13 an institution where he can receive any drug and/or alcohol
14 abuse treatment.

15 Thank you.

16 (Proceeding adjourned at 11:30 a.m.)

17 * * * * *

18 I certify that the foregoing is a correct
19 transcript to the best of my ability from the electronic
20 sound recording of the proceedings in the above-entitled
21 matter.

22 /S/ MARY D. HENRY

23 CERTIFIED BY THE AMERICAN ASSOCIATION OF
24 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**D-337
25 JUDICIAL TRANSCRIBERS OF TEXAS, LLC
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DATE: REFILED SEPTEMBER 2, 2015